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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,366	02/13/2004	Arkady Kantor	22177-0019-C2	7901

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EXAMINER

THOMAS, COURTNEY D

ART UNIT PAPER NUMBER

2882

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/779,366

**Applicant(s)**

KANTOR ET AL.

**Examiner**

Courtney Thomas

**Art Unit**

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

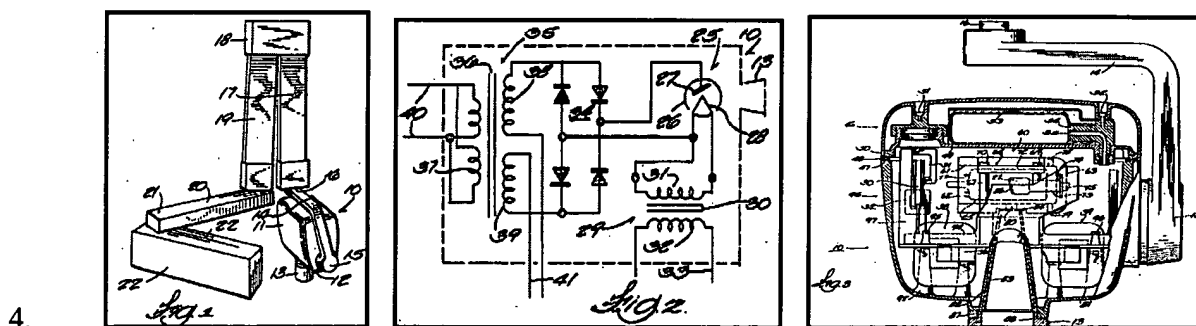
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 9-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,945,694. Although the conflicting claims are not identical, they are not patentably distinct from each other because **U.S. Patent No. 6,945,694** claims: a dental X-ray apparatus having an X-ray tube contained within a tubehead and supported by tubehead components, the improvement comprising said tubehead formed from cast zinc or zinc alloy and wherein the tubehead is supported by a yoke, said yoke

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comprises a control panel to perform control operations (see claims 1 and 2). Examiner notes that instant application (10/779,366) claim 9 is anticipated by the aforementioned claims.

3. Claims 15-21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,945,694 in view of U.S. Patent 4,157,476. U.S. Patent No. 6,945,694 claims: a dental X-ray apparatus having an X-ray tube contained within a tubehead and supported by tubehead components, the improvement comprising said tubehead formed from cast zinc or zinc alloy and wherein the tubehead is supported by a yoke, said yoke comprises a control panel to perform control operations (see claims 1 and 2). U.S. Patent 6,945,694 does not explicitly claim a tubehead comprising a housing, a collimator, a x-ray tube, high-voltage circuitry including one or more high-voltage transformers, dielectric oil and a tube holder to support the x-ray tube, wherein the collimator, the x-ray tube, the high voltage circuitry and the tube holder are disposed in the housing and soaked in dielectric oil.



Figs. 1, 2 & 3 – Dental X-ray Apparatus – U.S. Patent 4,157,476

5. U.S. Patent 4,157,476 teaches that a conventional dental tubehead (10) comprises a housing (11), a collimator (80), an x-ray tube (25), high-voltage circuitry including one or more high-voltage transformers (see Fig. 2 above), dielectric oil (column 1, lines 10-11) and a tube holder (60) to support the x-ray tube.

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6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of U.S. Patent 6,945,694, such that it incorporated a tubehead comprising a housing, a collimator, a x-ray tube, high-voltage circuitry including one or more high-voltage transformers, dielectric oil and a tube holder to support the x-ray tube, wherein the collimator, the x-ray tube, the high voltage circuitry and the tube holder are disposed in the housing and soaked in dielectric oil. One would have been motivated to make such a modification for the purpose of generating collimated X-ray radiation from a generating means, while reducing thermal build-up within the device by exposing internal components to heat transfer means as dielectric oil, as is suggested by U.S. Patent 4,157,476 and current practice within the X-ray radiation art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney Thomas whose telephone number is (571) 272-2496. The examiner can normally be reached on M - F (9 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272 2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Courtney Thomas  
Examiner  
Art Unit 2882